

BILL ANALYSIS

C.S.H.B. 1588
By: Driver
Law Enforcement
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, a constable has 270 days after election in which to become licensed as a peace officer. However, if a constable fails to do so, the sole means of removing him or her from office is by action of the local county commissioner's court. Due to local political considerations, commissioner's courts are often reluctant to take such action. Consequently, those who are not licensed as peace officers continue to operate with the powers of arrest and additional authorities inherent in law enforcement.

To address this issue, C.S.H.B. 1588 requires the Office of the Attorney General to institute a quo warranto proceeding to remove a constable who does not obtain a peace officer's license. Additionally, the bill requires a person serving as a constable to have a peace officer's license or an associate's degree when the person takes office.

Finally, the bill requires constables to take part in peace officer administrator's training similar to that required of police chiefs within 48 months of taking office. Currently, a constable may have as many as 300 deputies and yet is not obligated to train as a police administrator.

These provisions would ensure a higher degree of professionalism among constables' departments.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Bill Blackwood Law Enforcement Management Institute of Texas in SECTION 2 of this bill.

ANALYSIS

C.S.H.B. 1588 amends Chapter 86 of the Local Government Code by requiring that a person obtain an associate's degree or an active peace officer's license in order to be eligible to serve as a constable. The bill requires a constable who is eligible to serve because he or she has an associate's degree to present evidence that he or she holds a peace officer's license on or before the 270th day after taking office. The bill requires a person who is eligible to serve as a constable because he or she holds a peace officer's license to present evidence that he or she holds such a license on the date the individual takes office. The bill also provides a procedure by which the district judge and the commissioner's court replace a removed constable for the remainder of their term of office.

The bill amends Chapter 96 of the Education Code by requiring the Bill Blackwood Law Enforcement Management Institute of Texas (the institute) to establish and operate an initial and continuing education program for constables. The bill requires the curriculum of this program to be approved by the Commission on Law Enforcement Officer Standards and Education.

The bill requires each constable to complete 40 hours of continuing education training in each 48-month period. The bill requires an individual appointed or elected to the position of constable for the first time to complete at least 40 hours of initial training not later than the second anniversary of appointment or election as constable. This bill provides that this initial training program is in addition to the initial training required by Chapter 1701 of the Occupations Code. The bill provides that the 48-month period during which a new constable must complete 40 hours of continuing education will begin on the first anniversary of the date the individual completed the initial training program.

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The bill further amends Chapter 96 of the Education Code to allow the institute to provide waivers, by rule, of all or part of the 40 hours of initial training for new constables who have satisfactorily completed equivalent training during the 24 months preceding the individual's appointment or election. The bill also allows the institute to provide waivers, by rule, for the continuing education requirements for any individual who has satisfactorily completed equivalent continuing education during the preceding 24 months. The bill provides that an individual who is subject to the continuing education requirements of §96.642(b) is exempt from other continuing education requirements under Subchapter H, Chapter 1701 of the Occupations Code.

The bill further amends Chapter 96 of the Education Code by adding a new Section 96.642 requiring the Commission on Law Enforcement Standards and Education to establish procedures to ensure that constables comply with this section and forward documentation to the attorney general's office for those individuals that do not comply with this section. The bill provides that an individual who has not complied with this section will forfeit his or her office and requires the attorney general to institute a quo warranto proceeding under Chapter 66 of Civil Practice and Remedies Code to remove the constable from office. The bill also provides that to the extent of conflict between this section and any other law, this section controls.

The bill removes constables from the requirements of Section 1701.354, requiring continuing education, and makes conforming and nonsubstantive changes.

The bill requires the institute to establish the initial training and continuing education programs required by this Act by January 1, 2006.

The bill provides that the portions of this Act requiring newly elected constables to complete at least 40 hours of initial training applies only to an individual newly appointed or elected as constable who takes office after January 1, 2006.

The bill provides that the changes in law made by this Act to §86.0021, Local Government Code, do not apply to a constable serving a term that began before the effective date of this Act.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Original House Bill 1588 amended Chapter 86 of the Local Government Code by adding language requiring a bachelor's degree or an active peace officer's license in order for a person to be eligible to serve as a constable. The substitute changes the requirement of a bachelor's degree to an associate's degree.

C.S.H.B. 1588 differs from the original in that it authorizes the commissioners court to appoint an eligible successor to fill the office of constable as provided by §87.041, Local Government Code. The original bill made no such provision.